

Practitioner's Docket No. MPI00-133M**REMARKS**

Claims 53-72 are pending in the instant application. Claims 53, 56, 57, and 60 have been presently amended. No new matter has been added by virtue of the amendments. Support for the amendments lies in the original claims as filed as well as throughout the specification as filed.

Objections to the Specification

The specification was objected to because the Examiner purports it is not in compliance with Sequence Rules 37 CFR 1.821-1.825 which require each sequence present in the specification be assigned a sequence identifier. Specifically, the Examiner asserts that the "specification as amended December 11, 2003 contains no SEQ ID NO:3 that is listed in the Sequence listing."

Applicants assert that SEQ ID NO:3 of the Sequence Listing is described in the specification (see e.g., page 7, lines 23-26). Applicants submit herewith a copy of a Preliminary Amendment filed on March 21, 2001, which amended the specification to include proper reference to SEQ ID NO:3, and a copy of a stamped return postcard acknowledging receipt by the Patent Office. Applicants respectfully request reconsideration and withdrawal of the Examiner's objections to the specification.

The Rejection of Claim 60 under 35 U.S.C. § 112, Second Paragraph, Should Be Withdrawn

Claim 60 was rejected under 35 U.S.C. 112, second paragraph, as "being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention." Specifically, the Examiner asserts the phrase "A method for producing a MEKK1 polypeptide comprising a method" is confusing. The Examiner also objects to the phrase "said fragment encodes an amino acid comprising at least 500 contiguous amino acids of SEQ ID NO:2" as "an amino acid does not comprise 500 amino acids".

Applicants have amended claim 60 to recite the suggested wording of the Examiner. It is believed the present amendments render the rejection moot. Applicants thus respectfully request reconsideration and withdrawal of the 35 U.S.C. § 112, Second Paragraph, rejection.

The Rejection of Claims 53-59 and 61-72 under 35 U.S.C. § 102 Should Be Withdrawn

Claims 53-59 and 61-72 were rejected under 35 U.S.C. 102(b) as being anticipated by Xia et al.. The Examiner states that Xia et al. teach a nucleic acid which is "more than 90% identical to nucleotides 7-4545 of SEQ ID NO:1" and teach "a vector and a host cell comprising said nucleic acid sequence."

Applicants submit the present amendments to claims 53, 56 and 57 to specify nucleic acids which have at least 95% nucleotide sequence identity with the entire length of nucleotides 7-4545 of SEQ ID NO:1, and claims 55, 58-59 and 61-72 depend from those claims, distinguishes the claimed subject

(Page 7 of 9)

Practitioner's Docket No. MPI00-133M

matter over the disclosure of Xia et al. and as such, render the rejection moot. Applicants respectfully request reconsideration and withdrawal of the 35 U.S.C. § 102(b) rejection.

Practitioner's Docket No. MPI00-133M

CONCLUSIONS

In view of the amendments and remarks herein, Applicants respectfully submit that the objections and rejections presented by the Examiner are now overcome and that this application is in condition for allowance. If in the opinion of the Examiner, a telephone conference would expedite the prosecution of the subject application, the Examiner is invited to call the undersigned.

It is believed this paper is being filed timely and no extensions of time are required. In the event any extensions of time are necessary, the undersigned hereby authorizes the requisite fees to be charged to Deposit Account No. 501668.

Entry of the remarks made herein is respectfully requested.

May 3, 2004

Respectfully submitted,

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(Page 9 of 9)